

## **Minutes HEARING OFFICER AUGUST 7, 2007**

**Minutes of the regular public hearing of the Hearing Officer, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.**

**Present:**

David Williams, Hearing Officer  
Steve Abrahamson, Planning and Zoning Coordinator  
Shawn Daffara, Planner II  
Jon Christopher, Planner II

**Number of Interested Citizens Present: 22**

**Meeting convened at 1:30 PM and was called to order by Mr. Williams.**

1. Mr. Williams approved the Hearing Officer Minutes for July 17, 2007.
2. Mr. Williams noted that the following case(s) had been continued:

Hold a public hearing for a request by the **VULLO RESIDENCE (PL060722)** (Curt Wilt/Architect, applicant; Rick Vullo, property owner) located at 2034 South College Avenue in the R1-6, Single Family Residential District for:

**VAR07019** Variance to reduce the rear yard setback from the required fifteen (15) feet to two (2) feet.  
**CONTINUED TO THE AUGUST 21, 2007 HEARING OFFICER**

Hold a public hearing for a request by the **ROWLEY RESIDENCE (PL070041)** (Steve Briggs/TEBO LLC, applicant; Chris Rowley, property owner) located at 948 South Ash Avenue in the R-3, Multi-Family Residential Limited District for:

**ZUP07016** Use permit to allow tandem parking for a multi-family project.  
**VAR07006** Variance to reduce the north side yard setback from 10 feet to 3 feet.  
**VAR07007** Variance to reduce the west rear yard setback from 15 feet to 4 feet.  
**CONTINUED TO THE SEPTEMBER 4, 2007 HEARING OFFICER**

Hold a public hearing for a request by the **WEBB RESIDENCE (PL070303)** (Jim Harder/Building Dreams, applicant; Steve Webb, property owner) located at 2110 East Watson Drive in the R1-7, Single Family Residential District for:

**ZUP07095** Use permit standard to reduce the rear yard setback by twenty percent (20%) from fifteen feet (15') to twelve feet (12').  
**CONTINUED TO THE AUGUST 21, 2007 HEARING OFFICER**

Hold a public hearing for a request by **AA BUDGET MINI-STORAGE – U-HAUL (PL070307)** (Dilbert Martin, applicant; Dondel Inc. property owner) located at 1964 East University Drive in the GID, General Industrial District for:

**ZUP07097** Use permit to allow vehicle rentals (trucks, vans, trailers).  
**CONTINUED TO THE SEPTEMBER 4, 2007 HEARING OFFICER.**

-----

1. Hold a public hearing for a request by **MOSAIC (PL070092)** (Ron Brinkman/KML Development, applicant; University & Ash LLC, property owner) located at 770 South Ash Avenue in the CC, City Center District for:

**ZUP07088** Use permit to allow tandem parking for residential use.

Mr. Charles Hull mantel was present to represent this case.

Planner, Shawn Daffara, indicated a change in the staff summary report for this project. The description section within the report has been changed to reflect 236 units rather than 187 units.

**DECISION:**

Mr. Williams approved PL070092/ZUP07088 subject to the following conditions:

1. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
2. Any expansion or intensification of the use will require review of the use permit.
3. The use permit is valid for the plans as submitted within this application.
4. Tandem Parking is for residential uses only. No commercial parking areas shall utilize tandem parking.

-----

2. Hold a public hearing for a request by **COSTCO HOME STORE (PL070187)** (Shelly Pilla/WRG Design, applicant; Costco Wholesale, property owner) located at 1345 West Elliot Road in the PCC-2, Planned Commercial Center General District for:

**ZUP07065** Use permit to allow the display of one (1) vehicle located adjacent to the main entrance.

**ZUP07089** Use permit to allow outdoor retail display.

Mr. Jeff Curan was present to represent this case.

**DECISION:**

Mr. Williams approved PL070187/ZUP07065/ZUP07089 subject to the following conditions of approval:

1. The display of the vehicles shall not conflict with pedestrian or vehicular traffic. If any display items are moved into the sidewalk, the business may be cited and/or returned to the Hearing Officer for review, and potential revocation of the use permits.
2. The use permit is valid for the plans as submitted to and approved by the Hearing Officer. Any expansion of the outdoor display would require a new use permit.
3. The display of the vehicles shall not be located in the public right-of-way, parking spaces and landscape areas.

4. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the Development Services office, the use permit may be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
5. Any outdoor signage associated with the vehicle display shall be reviewed by the Development Services Department – Planning Division and are limited to three (3) square feet.
6. No sound amplification shall be used for the outdoor display.

-----

3. Hold a public hearing for a request by the **COREY RESIDENCE (PL070251)** (Ashley Corey, applicant/property owner) located at 1813 East Riviera Drive in the R1-6, Single Family Residential District for:

**ZUP07079** Use permit to allow an accessory building.

Mr. Ashley Corey was present to represent this case.

**DECISION:**

Mr. Williams approved PL070251/ZUP07079 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division.
2. Detached structure to be compatible in design with main dwelling; colors to match existing dwelling.
3. The detached accessory building shall not be used as a separate living unit. Only one residential unit allowed in the R1-6, Single Family Zoning District.

-----

4. Hold a public hearing for a request by the **POPE RESIDENCE (PL070273)** (Tony Pope, applicant/property owner) located at 1619 East Citation Lane in the AG, Agricultural District for:

**ZUP07090** Use permit standard to reduce the east side yard setback by twenty percent (20%) from fifteen feet (15') (subdivision standard) to twelve feet (12').

Mr. Bob Bliss was present to represent this case.

**DECISION:**

Mr. Williams approved PL070273/ZUP07090 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division.
2. The use permit approval is valid from the plans as submitted to and approved by the Hearing Officer.
3. The building addition shall match the existing residence in design, color and materials.

-----

5. Hold a public hearing for a request by **BUTTES BUSINESS CENTER – A INTERNATIONAL WINES (PL070277)** (Theresa Morse, applicant; Presson P.V. Four LLC, property owner) located at 2125 South 48<sup>th</sup> Street in the GID, General Industrial District for:

**ZUP07091** Use permit to allow a beer/wine bar (Series 7 License ).

Ms. Theresa Morse was present to represent this case.

Mr. Williams questioned the amount of required and available parking.

Steve Abrahamson, Planning and Zoning Coordinator, responded that the use would require three (3) parking spaces (1/300).

**DECISION:**

Mr. Williams approved PL070277/ZUP07091 subject to the following conditions:

1. This use permit is valid for A International Wines / Agnieszka Helena Rozum and may be transferable. Should the business be sold, the new owners must contact the Board of Adjustment/Hearing Officer staff for review of the business operations.
2. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
3. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
4. Any expansion or intensification of the use will require review of the use permit.
5. The use permit is valid for the plans as submitted with the application.
6. Submit a security plan with the Tempe Police Department within 30 calendar days (**September 7, 2007**). Contact Officer William Vanek at (480) 858-6342.

-----

6. Hold a public hearing for a request by **UNIVERSITY PLAZA – TIPPS 88 THAI CUISINE (PL070294)** (Patcharee Liampetchakul, applicant; Inverness LLC, property owner) located at 1435 East University Drive, Suite Nos. C111 and C112 in the GID, General Industrial District for:

**ZUP07092** Use permit to allow a restaurant with an outdoor dining patio.

Mr. Patcharee Liampetchakul was present to represent this case.

Keith Caylor, representing Ichi1 LLC, of 6125 East Indian School Road, Suite No. 1001, spoke in opposition to this request noting that there was a lien on the equipment.

Norman Fite, of 853 West Elgin Street, spoke in support of this request and noted that he was unaware of any lien.

**DECISION:**

Mr. Williams approved PL070294/ZUP07092 subject to the following conditions;

1. This use permit is valid for "Tipps 88 Thai Cuisine" and may be transferable. Should the business be sold, the new owners must contact the Board of Adjustment/Hearing Officer staff for review of the business operations.
2. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
3. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
4. Any expansion or intensification of the use will require review of the use permit.
5. The use permit is valid for the plans as submitted with the application.
6. Submit a security plan with the Tempe Police Department within 30 calendar days (**September 7, 2007**). Contact Officer Derek Pittam at (480) 858-6341.

7. The restaurant Tipps 88 Thai Cuisine shall adhere to the City of Tempe Noise Ordinance.

-----

7. Hold a public hearing for a request by the **TRICK RESIDENCE (PL070298)** (Stan Patton, applicant; Robert Trick, property owner) located at 304 East 15<sup>th</sup> Street in the R1-6, Single Family Residential District for:

**ZUP07093** Use permit to allow an accessory building (pool cabana).

Mr. Robert Trick was present to represent this case.

Mr. Williams noted that during his inspection of this site, there was no sign posted. Mr. Trick responded that the posted sign had blown down during the storm last week.

**DECISION:**

Mr. Williams continued PL070298/ZUP07093 to the September 4, 2007 Hearing Officer hearing, stating that the sign needs to be re-posted.

-----

8. Hold a public hearing for a request by **TEMPE CITY CENTER - SNEAKERS SPORTS GRILL (PL070302)** (Keith Quilty, applicant; Hearn Company, property owner) located at 1470 East Southern Avenue in the PCC-2, Planned Commercial Center General District for:

**ZUP07094** Use permit to allow live entertainment (live acoustical guitar and karaoke).

Mr. Keith Quilty was present to represent this case.

Mr. Williams discussed the noise complaint(s) and anticipated hours of business with Shawn Daffara, staff planner. The noise complaint was due to acoustical music until 10 PM.

Shelley Miller, of the Tempe Center, 1400 East Southern Avenue, spoke in support of this request, and stated that she was aware of the complaint.

**DECISION:**

Mr. Williams approved PL070302/ZUP07094 subject to the following conditions:

1. This use permit is valid for "Sneakers Sports Grill" and is non-transferable. Should the business be sold, the new owners must contact the Board of Adjustment/Hearing Officer staff and apply for a new use permit.
2. All permits and clearances required by the Building Safety Division and shall be obtained prior to the use permit becoming effective.
3. The live entertainment shall be indoors only. No live entertainment will be allowed **after 10 PM** on the exterior patio. **MODIFIED BY HEARING OFFICER**
4. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
5. Any expansion or intensification of the use will require review of the use permit.
6. The use permit is valid for the plans as submitted within this application.
7. The restaurant, Sneakers Sports Grill, will adhere to the City of Tempe Noise Ordinance.
8. **Use permit to be re-evaluated by the Hearing Officer in twelve (12) months. ADDED BY HEARING OFFICER**

- 
9. Hold a public hearing for a request by **BICYCLE WHEELERS INC. (PL070305)** (Judy Malvestato, applicant/property owner) located at 2010 South Rural Road in the CSS, Commercial Shopping and Services District for:

**ZUP07096** Use permit to allow outdoor retail display.

Ms. Judy Malvestato was present to represent this case.

**DECISION:**

Mr. Williams approved PL070305/ZUP07096 subject to the following conditions:

1. The use permit is valid for "Bicycle Wheelers, Inc." and may be transferable. Should the business be sold, the new owners must contact the Board of Adjustment/Hearing Officer staff for review of the business operations.
2. The display of bicycles shall not be located in the public right-of-way or landscape areas or obstruct the main entrance; a seven (7) foot aisle shall be maintained. **MODIFIED BY HEARING OFFICER**

- 
10. Hold a public hearing for a request by the **FOX RESIDENCE (PL070306)** (Darwin Fox, applicant/property owner) located at 520 East Manhattan Drive in the R1-6, Single Family Residential District for:

**VAR07021** Variance to raise the height of the fence/wall in the front yard setback from four feet (4') to five feet eight inches (5' 8").

Mr. Darwin Fox was present to represent this case. He stated that he had not received a copy of the staff summary report.

Mr. Bob Francis, of 534 East Pebble Beach Drive, spoke in support of this request. He stated that he liked the wall and felt that the courtyard that was created as an entryway or foyer was a transition area that was unique and attractive.

**DECISION:**

Mr. Williams continued PL070306/VAR07021 to the September 4, 2007 Hearing Officer hearing so that Mr. Fox could review the staff summary report.

- 
11. Hold a public hearing for a request by **SUN STOP PLAZA – THE TEXTBOOK GUY LLC (PL070310)** (James Moore, applicant; Royal West Investments Inc., property owner) located at 1212 East Apache Boulevard in the CSS, Commercial Shopping and Services District for:

**ZUP07098** Use permit to allow a temporary sales tent for textbook sales.

Mr. Matthew Sterling was present to represent this case. He stated that he was the partner of Mr. James Moore, the applicant for this case. He noted that this was a local business with a temporary tent.

**DECISION:**

Mr. Williams approved PL070310/ZUP07098 subject to the following conditions:

1. The applicant shall remove all necessary equipment and clean up the lot of his site location after his use permit has expired (August 25<sup>th</sup> after 7 PM).
2. The retail display and sales shall not conflict with pedestrian or vehicular traffic.
3. The applicant shall remove the tent display from the parking lot at the end of each work day (7:00 PM).
4. **This use permit shall be valid for three (3) years – one week in the Fall and one week in the Spring – the week prior to the start of classes at ASU (both Fall and Spring semesters). ADDED BY HEARING OFFICER**

-----

12. Hold a public hearing for a request by **WARNER VILLAGE – COMMERCIAL STAFFING (PL070313)** (Brandon Granillo, applicant; Amoroso LLC, property owner) located at 8675 South Priest Drive, Building D, Suite 102 in the PCC-1, Planned Commercial Center Neighborhood District for:

**ZUP07099** Use permit to allow an employment agency.

Mr. Brandon Granillo was present to represent this case.

Mr. Bill Douglass, of 97 West Pecan Place, spoke regarding the leases in Warner Village and concerns with loitering, ownership, etc.

**DECISION:**

Mr. Williams approved PL070313/ZUP07099 subject to the following conditions:

1. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
2. The use permit is transferable. Should the business be sold, the new owners must reprocess for administrative review.
3. The use permit is valid for the plans and business operation as submitted to and approved by the Hearing Officer/Board of Adjustment. Any expansion or intensification of the use will require review of the use permit.
4. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
5. **Hours of operation are limited to Monday – Friday, 8:00 AM to 5:00 PM. ADDED BY HEARING OFFICER**

-----

13. Hold a public hearing for a request by **TEMPE PREPARATORY ACADEMY (PL070314)** (Dave Maza, applicant; Tempe Preparatory Academy, property owner) located at 1251 East Southern Avenue in the R1-6, Single Family Residential District for:

**ZUP07100** Use permit to allow an accessory building (shade ramada).

Mr. Dave Maza was present to represent this case. He stated that the shade is fourteen feet high (14') and will offer shading on a level surface for use by the weight lifting and sports teams.

**DECISION:**

Mr. Williams approved PL070314/ZUP07100 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division; providing two set(s) of construction drawings for planning plan check review.
2. **Complete a general cleanup of materials and debris within the southwest corner of the property.**  
**ADDED BY HEARING OFFICER**

-----

14. Hold a public hearing for a request by the **GARZA RESIDENCE (PL070320)** (Terry Williams/Williams Development Co. Inc., applicant; Dr. John Garza, property owner) located at 1014 East Knox Road in the AG, Agricultural District for:

**ZUP07087** Use permit to allow a second story addition.

Mr. Terry Williams of Williams Development Company was present to represent this case. He noted that the request is for a stairwell leading to the flat roof and a walking deck of a single story structure– there is not second story structure being built.

Mr. Williams noted that the notification sign was missing from this property when he did a site review.

**DECISION:**

Mr. Williams approved PL070320/ZUP07087 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division.
2. The addition shall be compatible with the existing dwelling in design, colors and materials.

-----

15. Hold a public hearing for a request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **BANKHEAD RESIDENCE (PL070308/ABT07020)** (James Alan Bankhead, property owner) Complaint No. CE064423 located at 1736 South El Camino Drive, in the R1-6, Single Family Residential District.

Mr. Paul Johnson was present to represent the property owner. He stated that he was a cousin of the property owner, and that they had been working on the site and it would be taken care of.

Ms. Michelle Arnieri was present to represent the City of Tempe, Neighborhood Enhancement Dept. She noted that progress is being made by the resident, not Mr. Bankhead. This property was abated five (5) months ago in March 2007.

**DECISION:**

Mr. Williams continued abatement proceedings for PL070308/ABT07020 to the September 4, 2007 Hearing Officer hearing.

-----



16. Hold a public hearing for a request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **MOORE PROPERTY (PL070309/ABT07021)** (Marilyn Moore, property owner) Complaint No. CE073009 located at 438 West Hermosa Drive, in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

Jody Benson was present to represent the City of Tempe, Neighborhood Enhancement Dept. She reported that no progress had been made on the condition of this property.

**DECISION:**

Mr. Williams approved abatement proceedings for PL070309/ABT07021 and stated that standing abatement order would remain in force for six (6) months until March 31, 2008.

-----  
The next Hearing Officer public hearing will be held on **Tuesday, August 21, 2007.**

-----  
**There being no further business the public hearing adjourned at 3:11 PM.**  
-----

Prepared by: Diane McGuire, Administrative Assistant II  
Reviewed by:

A handwritten signature in blue ink that reads "Steve A. Abrahamson". The signature is written in a cursive, flowing style.

---

Steve Abrahamson, Planning & Zoning Coordinator  
for David Williams, Hearing Officer

SA:dm